medical man appointed in this behalf by the [1][[2][State] Government], if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(*4*) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(*5*) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class and any Magistrate especially empowered in this behalf by the State Government or the District Magistrate.

(*5*) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, [3][Sub-divisional Magistrate [4][or *any Executive Magistrate*] especially empowered in this behalf by the [1][[2][State] Government] or the District Magistrate.

Power to summon persons.

175. (*1*) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(*2*) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (*1*) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (*a*), (*b*) and (*c*) of sub-section (*1*), any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police-officer, and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses.

(*2*) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

[1] Substituted by the A. O. 1937 for "L. G."

[2] Substituted by the A. O. 1950 for "Provincial".

[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 41, for "or Sub-divisional Magistrate".

[4] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "or Magistrate of the first class and any Magistrate".

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the [1][[2][State] Government] may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861, [3][or section 107 of the Government of India Act, 1915], [4][or section 224 of the Government of India Act, 1935], [5][or article 227 of the Constitution] or under this Code, section 526.

24 & 2 Vict., c. 104. 5 & 6 Geo. 5, c. 61. 26 Geo. 5 Ch. 2.

Accused triable in district where act is done or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried by X or Z.

(*b*) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y, or Court Z, to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(*c*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

(*d*) A is wounded in [6][the State of Saurashtra], and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

Place of trial where act is offence by reason of relation to other offence.

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Inserted by the Amending Act, 1916 (13 of 1916), s. 2 and Schedule.
[4] Inserted by the A. O. 1937.
[5] Inserted by the A. O. 1950.
[6] Substituted by the A. O. 1950 for "the Native State of Baroda".

181. (*1*) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is. Being a thug or belonging to a gang of dacoits, escape from custody, etc.

(*2*) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed. Criminal misappropriation and criminal breach of trust.

[1][(*3*) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.] Theft.

(*4*) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained. Kidnapping and abduction.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas. Place of inquiry or trial where scene of offence is uncertain or not in one district only or where offence is continuing or consists of several acts.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage. Offence committed on a journey.

184. All offences against the provisions of any law for the time being in force relating to Railways,[2] Telegraphs,[3] the Post-office[4] or Arms and Ammunition[5] may be inquired into or tried in a presidency-town, whether the offence is stated to have been committed within such town or not: Offences against Railway, Telegraph, Post Office, and Arms Acts.

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), section 42, for the original sub-section (*3*).

[2] *See* the Indian Railways Act, 1890 (9 of 1890).

[3] *See* the Indian Telegraphs Act, 1885 (13 of 1885).

[4] *See* the Indian Post Office Act, 1898 (6 of 1898).

[5] *See* the Indian Arms Act, 1878 (11 of 1878).

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

[1][185. (*1*) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

(*2*) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides all other proceedings against such person in respect of such offence shall be discontinued. If such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court, within the local limits of whose appellate criminal jurisdiction such proceedings are pending, may give a like direction, and upon its so doing all other such proceedings shall be discontinued.]

Power to issue summons or warrant for offence committed beyond local jurisdiction.

Magistrate's procedure on arrest.

186. (*1*) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the State Government a Magistrate of the first class sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits whether within or without India an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force, triable in India, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Power to issue summons or warrant for offence committed beyond local jurisdiction.

Magistrate's procedure on arrest.

186. (*1*) When a Presidency Magistrate, [2][*or a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court*], sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without [3][India]) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in [3][India], such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 43, for the original s. 185.

[2] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "a District Magistrate, a Sub-Divisinal Magistrate, or if he is specially empowered in this behalf by the State Government, a Magistrate of the first class".

[3] The words "British India" have successively been subs. by the A. O. 1937, A. O. 1950 and Act I of 1951 to read as above.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

Procedure where warrant issued by subordinate Mag.strate.

187. (*1*) If the person has been arrested under a warrant issued under section 186, by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

Procedure where warrant issued by subordinate Mag.strate.

187. (*1*) If the person has been arrested under a warrant issued under section 186 [1][*the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge*] to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of Indian citizens for offences committed out of India.

188. [2][When an offence is committed by—

(*a*) any citizen of India in any place without and beyond India ; or

(*b*) any person on any ship or aircraft registered in India, wherever it may be],

he may be dealt with in respect of such offence as if it had been committed at any place within [3][India] at which he may be found :

Political Agents to certify fitness of inquiry into charge.

Provided that [4][notwithstanding anything in any of the preceding sections of this Chapter] no charge as to any such offence shall be inquired into in [3][India] unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in [3][India] ; and where there is no Political Agent, the sanction of the [5][[6][*State*] *Government*] shall be required.

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in [3][India] shall be a bar to further proceedings against him under [7][the Indian Extradition Act, 1903], in respect of the same offence in any territory beyond the limits of [3][India].

XV of 1903.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-Divisional Magistrate".

[2] Substituted by the A. O. 1950 for the portion commencing with "When a British subject domiciled in India" and ending with "registered in the Provinces wherever it may be".

[3] The words "British India" have successively been subs. by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[4] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 44.

[5] Substituted by the A. O. 1937 for "L. G.".

[6] Substituted by the A. O. 1950 for "Provincial".

[7] Substituted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Schedule I, for "the Foreign Jurisdiction and Extradition Act, 1879".

Power to direct copies of depositions and exhibits to be received in evidence.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the [1][2][State] Government] may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

B.—Conditions requisite for initiation of proceedings.

Cognizance of offences by Magistrates.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate and any other Magistrate specially empowered in this behalf may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a report in writing of such facts made by any police-officer;

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(*2*) The State Government or the District Magistrate subject to the general or special orders of the State Government may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The State Government may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

Cognizance of offences by Magistrates.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate [3]* * * * and [4][*any Judicial*] Magistrate specially empowered [5][*in that behalf under section 37*] may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

[6][(*b*) upon a report in writing of such facts made by any police-officer;]

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(*2*) The [1][2][State] Government] [7]* * * may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*), or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The [1][2][State] Government] may [8][*in consultation with the High Court*] empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

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[1] Substituted by the A. O. 1937 for "L. G.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] The words "District Magistrate or Sub-Divisional Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Schedule Part I.

[4] Substituted, *ibid*, for "any other".

[5] Substituted by Bom. 34 of 1953, s. 8, for "in this behalf by the State Government in consultation with the High Court".

[6] Substituted by Act 18 of 1923, s. 45, for the original clause (*b*).

[7] The words ", or the District Magistrate subject to the general or special orders of the State Government" were deleted by Bom. 23 of 1951, s. 2 and Schedule Part I.

[8] Inserted, *ibid*.

191. When a Magistrate takes cognizance of an offence under sub-section (*1*), clause (*c*), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate. Transfer or commitment on application of accused.

192. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him. Transfer of cases by Magistrates.

(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

192. (*1*) Any Chief Presidency Magistrate [1]* * * may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him. Transfer of cases by Magistrates.

(*2*) [2][*A Sessions Judge*] may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate [3][*in the sessions division*] who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

[4][(*3*) *Any District Magistrate or Sub-Divisional Magistrate may transfer any case of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him and such Magistrate may dispose of the case accordingly.*]

193. (*1*) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf. Cognizance of offences by Courts of Session.

(*2*) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the State Government by general or special order may direct them to try, or as the Sessions Judge of the division, by general or special order, may make over to them for trial.

(*2*) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the [5][[6][State] Government] [7][*in consultation with the High Court*] by general or special order may direct them to try, or [8]* * as the Sessions Judge of the division, by general or special order, may make over to them for trial.

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[1] The words ", District Magistrate or Sub-divisional Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[2] Substituted, *ibid.*, for "Any District Magistrate".
[3] Substituted, *ibid.*, for "in his district".
[4] Inserted by Bom. 8 of 1954, s. 2, Sch.
[5] Substituted by the A. O. 1937 for "L. G.".
[6] Substituted by the A. O. 1950 for "Provincial".
[7] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[8] The words "in the case of Assistant Sessions Judges" rep. by Act 18 of 1923, s. 46.

Cognizance of offences by High Court.

194. (*1*) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

[1][Nothing herein contained shall be deemed to affect the provisions of any letters patent or [2][law] by which a High Court is constituted or continued, or any other provision of this Code.]

Informations by Advocate General.

(*2*) (*a*) Notwithstanding anything in this Code contained, the Advocate General may, with the previous sanction of [3]* * the [4][[5]State] Government], exhibit to the High Court, against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her Majesty's Attorney General may exhibit informations on behalf of the Crown in the High Court of Justice in England.

(*b*) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney General so far as the circumstances of the case and the practice and procedure of the said High Court will admit.

(*c*) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information [6][shall form part of the revenues of the [7][State].

(*d*) The High Court may make rules for carrying into effect the provisions of this section.

Prosecution for contempt of lawful authority of public servants.

195. [8][(*1*) No Court shall take cognizance—

(*a*) of any offence punishable under sections 172 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate; XLV of 1860.

Prosecution for certain offences against public justice.

(*b*) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate; or

Prosecution for certain offences relating to documents given in evidence.

(*c*) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.]

(*2*) In clauses (*b*) and (*c*) of sub-section (*1*), the term "Court" [9][includes] a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the Indian Registration Act, 1877 [10]. III of 1877.

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[1] Substituted by the A. O. 1950 for the original paragraph.
[2] Substituted by Act 1 of 1951, s. 10, for "order".
[3] The words "the G. G. in C. or" rep. by the A. O. 1937.
[4] Substituted by the A. O. 1937 for "L. G."
[5] Substituted by the A. O. 1950 for "Provincial".
[6] Substituted by the A. O. 1937 for "shall belong to the G. of I."
[7] Substituted by the A. O. 1950 for "Province".
[8] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 47, for the original sub-section (*1*).
[9] Substituted, *ibid.*, s. 47, for "means".
[10] *See* now the Indian Registration Act, 1908 (16 of 1908).

[1][(3) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate :

Provided that—

(*a*) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate ; and

(*b*) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.]

[2][(4)] The provisions of sub-section (*1*), with reference to the offences named therein, apply also to [3][criminal conspiracies to commit such offences and to] the abetment of such offences, and attempts to commit them.

[4][(5) Where a complaint has been made under sub-section (*1*), clause (*a*), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.]

Prosecution for offences against the State.

196. No Court shall take cognizance of any offence punishable under Chapter VI [5][or IXA] of the Indian Penal Code (except section 127 [6][and section 171F, so far as it relates to the offence of personation]) or punishable under section 108A, or section 153A, or section 294A, [7][or section 295A] or section 505 of the same Code unless upon complaint made by order of, or under authority from, [8][the [9][State] Government or some officer empowered by the [9][State] Government] in this behalf.

XLV of 1860.

Prosecution for certain classes of criminal conspiracy.

[10][196A. No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Indian Penal Code,

(*1*) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of section 196 apply, unless upon complaint made by order or under authority from [8][the [9][State] Government or some officer empowered by the [9][State] Government] in this behalf, or

XLV of 1860.

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[1] Substituted by Act 18 of 1923, s. 47, for the original sub-section (*7*) which was renumbered (*3*) by the same Act.

[2] The original sub-section (*3*) was re-numbered (*4*) by s. 47, *ibid.*

[3] Ins. by the Criminal Law Amendment Act, 1913 (8 of 1913), s. 4.

[4] The original sub-sections (*4*), (*5*) and (*6*) were repealed, and the new sub-section (*5*) was inserted by Act 18 of 1923, s. 47.

[5] Inserted by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 3.

[6] Inserted by Act 43 of 1951, s. 138 (see also Bom. 29 of 1935, s. 2).

[7] Inserted by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.

[8] Substituted by the A. O. 1937 for "the G. G. in C., the L. G., or some officer empowered by the G. G. in C."

[9] Substituted by the A. O. 1950 for "Provincial".

[10] S. 196A was inserted by the Criminal Law Amendment Act, 1913 (8 of 1913), s. 5.

(*2*) in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, [1][imprisonment for life] or rigorous imprisonment for a term of two years or upwards, unless the [2][[3][State] Government], or a Chief Presidency Magistrate or District Magistrate empowered in this behalf by the [2][3][State] Government], has, by order in writing, consented to the initiation of the proceedings :

Provided that where the criminal conspiracy is one to which the provisions of sub-section [4][(*4*)] of section 195 apply no such consent shall be necessary.]

Preliminary inquiry in certain cases.

[5][**196B.** In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (*3*).]

Prosecution of Judges and public servants.

197. [6][(*1*) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a [2][3][State] Government] or [7][the Central Government], is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the [8][previous sanction— XLV of 1860.

[9][(*a*) in the case of a person employed in connection with the affairs of the Union, of the Central Government ; and

(*b*) in the case of a person employed in connection with the affairs of a State, of the State Government.] .] .].

Power of Central or State Governments as to prosecution.

(*2*) [10][[11]The Central Government or the State Government], as the case may be, [12]* * * * may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge, [13][Magistrate] or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Prosecution of Rulers of former Indian States.

[15][**197A.** (*1*) In this section—

(*a*) "former Indian State" means any such Indian State as the Central Government may, by notification in the Official Gazette, specify for the purposes of this section ;

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[1] Substituted by Act 26 of 1955, s. 24, for "transportation".
[2] Substituted by the A. O. 1937 for "L.G."
[3] Substituted by the A. O. 1950 for "Provincial".
[4] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 48, for "(*3*)".
[5] S. 196B was inserted by s. 49, *ibid.*
[6] Substituted by s. 50, *ibid.*, for the original sub-section (*1*).
[7] Substituted by the A. O. 1948 for "some higher authority".
[8] Substituted by the A. O. 1937 for "previous sanction of the L. G.".
[9] Substituted by the A. O. 1950 for the original clauses (*a*) and (*b*).
[10] Substituted by the A. O. 1937 for "such Government".
[11] Substituted by the A. O. 1950 for "the Governor General or Governor".
[12] The words "exercising his individual judgment" repealed by the A. O. 1947.
[13] Inserted by Act 18 of 1923, s. 50.
[14] Sub-section (*3*), ins. by the A. O. 1937, repealed by the A. O. 1948.
[15] Inserted by Act 1 of 1951, s. 11.

(*b*) "Ruler", in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution.

(*2*) No court shall take cognizance of any offence alleged to have been committed by the Ruler of a former Indian State except with the previous sanction of the Central Government.

(*3*) The provisions of sub-section (*2*) of section 197 shall apply in relation to the prosecution and trial of the Ruler of a former Indian State as they apply in relation to the prosecution and trial of a Judge.]

Prosecution of Commissioner appointed by Civil Court.

[1][**197AA.** *When any person, who is a Commissioner appointed by a Court under the provisions of the Code of Civil Procedure, 1908, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his functions as Commissioner, no Court shall take cognizance of such offence except with the previous sanction of the Court, which appointed such person as Commissioner.*]

V of 1908.

Prosecution for breach of contract, defamation and offences against marriage.

XLV of 1860. **198.** No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence:

[2][Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf:]

[3][Provided further that where the husband aggrieved by an offence under section 494 of the said Code is serving in any of [4][the Armed Forces of the Union] under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (*1*) of section 199B may, with the leave of the Court, make a complaint on his behalf.]

Prosecution for offence of marital misbehaviour.

XLV of 1860. [5][**198A.** No Court shall take cognizance of an offence under section 376 of the Indian Penal Code, where such offence consists of sexual intercourse by a man with his own wife, the wife being under fifteen years of age,—

(*i*) if more than one year has elapsed from the date of the commission of the offence,

(*ii*) in the case of any marriage which has taken place before the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949, [6]came into force, if the wife was not under thirteen years of age on the date of the marriage.]

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[1] Inserted by Bom. 20 of 1951, s. 2, read with Bom. 39 of 1951, s. 3 and Second Schedule.
[2] Inserted by Act 18 of 1923, s. 51.
[3] Inserted by Act 28 of 1943, s. 2.
[4] Substituted by the A. O. 1950 for "His Majesty's armed forces".
[5] Inserted by Act 42 of 1949, s. 4.
[6] 15th July 1949.

Prosecution for defamation against public servants in respect of their conduct in the discharge of public functions.

[1][198B. (*1*) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (other than the offence of defamation by spoken words) is alleged to have been committed against the President, or the Vice-President, or the Governor or Rajpramukh of a State, or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State, in respect of his conduct in the discharge of his public functions, a Court of Session may take cognizance of such offence, without the accused being committed to it for trial, upon a complaint in writing made by the Public Prosecutor. XLV of 1860.

(*2*) Every such complaint shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(*3*) No complaint under sub-section (*1*) shall be made by the Public Prosecutor except with the previous sanction,—

(*a*) in the case of the President or the Vice-President or the Governor or Rajpramukh of a State, of any Secretary to the Government authorised by him in this behalf;

(*b*) in the case of a Minister of the Central Government or of a State Government, of the Secretary to the Council of Ministers, if any, or of any Secretary to the Government authorised in this behalf by the Government concerned;

(*c*) in the case of any other public servant employed in connection with the affairs of the Union or of a State, of the Government concerned.

(*4*) No Court of Session shall take cognizance of an offence under sub-section (*1*) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(*5*) When the Court of Session takes cognizance of an offence under sub-section (*1*), then, notwithstanding anything contained in this Code, the Court of Session shall try the case without a jury and in trying the case, shall follow the procedure prescribed for the trial by Magistrates of warrant cases instituted otherwise than on a police report and the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded otherwise directs, be examined as a witness for the prosecution.

(*6*) If in any case instituted under this section, the Court of Session by which the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Court of Session may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or the Governor or Rajpramukh of a State) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(*7*) The Court of Session shall record and consider any cause which may be shown by the person so directed and if it is satisfied that the accusation was false and either frivolous or vexatious, it may, for reasons to be recorded, direct that compensation to such amount, not exceeding one thousand rupees, as it may determine, be paid by such person to the accused or to each or any of them.

(*8*) All compensation awarded under sub-section (*7*) may be recovered as if it were a fine.

[1] Inserted by Act 26 of 1955, s. 25.

(*9*) No person who has been directed to pay compensation under sub-section (*7*) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(*10*) The person who has been ordered under sub-section (*7*) to pay compensation may appeal from the order, in so far as the order relates to the payment of the compensation, as if he had been convicted in a trial held by the Court of Session.

(*11*) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (*10*), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(*12*) For the purposes of this section, the expression "Court of Session" includes the High Courts at Calcutta and Madras in the exercise of their original criminal jurisdiction.

(*13*) The provisions of this section shall be in addition to, and not in derogation of those of section 198.]

Prosecution for adultery or enticing a married woman.

XLV of 1860.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman; or, in his absence, [1][made with the leave of the Court] by some person who had care of such woman on his behalf at the time when such offence was committed.

[1][Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf:]

[2][Provided further that where such husband is serving in any of [3][the Armed Forces of the Union] under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, and where for any reason no complaint has been made by a person having care of the woman as aforesaid, some other person authorised by the husband in accordance with the provisions of sub-section (*1*) of section 199B may, with the leave of the Court, make a complaint on his behalf.]

Objection by lawful guardian to complaint by person other than person aggrieved.

[4][**199A.** When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him reasonable opportunity of objecting to the granting thereof.]

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[1] Inserted by Act 18 of 1923, s. 52.
[2] Inserted by the Code of Criminal Procedure (Second Amendment) Act, 1943 (28 of 1943), s. 3.
[3] Substituted by the A. O. 1950 for "His Majesty's armed forces".
[4] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 53.

Form of authorisation under second proviso to section 198 or 199.

[1][199B. (*1*) The authorisation of a husband given to another person to make a complaint on his behalf under the second proviso to section 198 or the second proviso to section 199 shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by the Officer referred to in the said provisos, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(*2*) Any document purporting to be such an authorisation and complying with the provisions of sub-section (*1*), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine, and shall be received in evidence.]

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

Examination of complainant.

200. [2]* * * A Magistrate taking cognizance of an offence on complaint shall at once [3][examine the complainant and the witnesses present, if any, upon oath and the substance of the examination shall be reduced to writing and shall be signed by the complainant and the witnesses], and also by the Magistrate:

Provided as follows:—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192;

[4][(*aa*) when the complaint is made in writing nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties;]

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and [5][where the complaint is made in writing] need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing;

(*c*) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

201. (*1*) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(*2*) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

Postponement for issue of process.

202. [6][(*1*) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained

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[1] Inserted by Act 28 of 1943, s. 4.
[2] The words and figures "Subject to the provisions of section 476" rep. by Act 18 of 1923, s. 54.
[3] Substituted by Act 26 of 1955, s. 26, for the original portion.
[4] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 54.
[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 3.
[6] Substituted by Act 18 of 1923, s. 55, for the original sub-section (*1*).